

**U.S. District Court
Southern District of New York (Foley Square)
CIVIL DOCKET FOR CASE #: 1:17-cv-06978-CM-KHP**

McLean v. Social Security Administration
Assigned to: Judge Colleen McMahon
Referred to: Magistrate Judge Katharine H. Parker
Cause: 05:552 Freedom of Information Act

Date Filed: 09/13/2017
Jury Demand: None
Nature of Suit: 895 Freedom of Information Act
Jurisdiction: U.S. Government Defendant

Plaintiff

Omel McLean
on behalf of
J.N.M. a minor

represented by **James M. Baker**
James M. Baker
100 Lafayette Street., Suite 304
New York, NY 10013
212-979-0505
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ATTORNEY TO BE NOTICED

V.

Defendant

Social Security Administration

represented by **Joseph Anthony Pantoja**
U.S. Attorney's Office, SDNY (86 Chambers St.)
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New York, NY 10007
212 637-2200
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ATTORNEY TO BE NOTICED

| Date Filed | # | Docket Text |
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| 09/13/2017 | <u>1</u> | COMPLAINT against Social Security Administration. Document filed by Omel McLean. (Attachments: # <u>1</u> Exhibit Proof of Mailing, # <u>2</u> Exhibit Proof of Receipt, # <u>3</u> Exhibit Redacted Copy of FOIA Request)(Baker, James) (Entered: 09/13/2017) |
| 09/13/2017 | <u>2</u> | CIVIL COVER SHEET filed. (Baker, James) (Entered: 09/13/2017) |
| 09/13/2017 | <u>3</u> | REQUEST TO PROCEED IN FORMA PAUPERIS. Document filed by Omel McLean.(Baker, James) (Entered: 09/13/2017) |
| 09/13/2017 | <u>4</u> | FILING ERROR – DEFICIENT PLEADING – SUMMONS REQUEST PDF ERROR – REQUEST FOR ISSUANCE OF SUMMONS as to Social Security Administration, re: <u>1</u> Complaint. Document filed by Omel McLean. (Baker, James) Modified on 9/20/2017 (pc). (Entered: 09/13/2017) |
| 09/14/2017 | | ***NOTICE TO ATTORNEY REGARDING PARTY MODIFICATION. Notice to attorney James M. Baker. The party information for the following party/parties has been modified: Added Alias – J.N.M. a minor to Omel McLean; Social Security Administration. The information for the party/parties has been modified for the following reason/reasons: alias party name was omitted. (rch) (Entered: 09/14/2017) |
| 09/14/2017 | | CASE OPENING INITIAL ASSIGNMENT NOTICE: The above–entitled action is assigned to Judge Colleen McMahon. Please download and review the Individual Practices of the assigned District Judge, located at http://nysd.uscourts.gov/judges/District . Attorneys are responsible for providing courtesy copies to judges where their Individual Practices require such. Please download and review the ECF Rules and Instructions, located at |

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| | | http://nysd.uscourts.gov/ecf_filing.php . (rch) (Entered: 09/14/2017) |
| 09/14/2017 | | Magistrate Judge Katharine H. Parker is so designated. Pursuant to 28 U.S.C. Section 636(c) and Fed. R. Civ. P. 73(b)(1) parties are notified that they may consent to proceed before a United States Magistrate Judge. Parties who wish to consent may access the necessary form at the following link: http://nysd.uscourts.gov/forms.php . (rch) (Entered: 09/14/2017) |
| 09/14/2017 | | Case Designated ECF. (rch) (Entered: 09/14/2017) |
| 09/18/2017 | <u>5</u> | ORDER REFERRING CASE TO MAGISTRATE JUDGE. Order that case be referred to the Clerk of Court for assignment to a Magistrate Judge for Social Security. Referred to Magistrate Judge Katharine H. Parker. (Signed by Judge Colleen McMahon on 9/18/2017) (mro) (Entered: 09/18/2017) |
| 09/20/2017 | <u>6</u> | MEMO ENDORSEMENT: on APPLICATION TO PROCEED WITHOUT PREPAYING FEES OR COSTS: ENDORSEMENT: APPLICATION GRANTED. Leave to proceed in this Court without prepayment of fees is authorized. 28 U.S.C. § 1915. (Signed by Magistrate Judge Katharine H. Parker on 9/20/2017) (ap) (Entered: 09/20/2017) |
| 09/20/2017 | <u>7</u> | FILING ERROR – WRONG EVENT TYPE SELECTED FROM MENU – REQUEST FOR ISSUANCE OF AMENDED SUMMONS as to Social Security Administration, re: <u>1</u> Complaint. Document filed by Omel McLean. (Baker, James) Modified on 9/20/2017 (pc). (Entered: 09/20/2017) |
| 09/20/2017 | | ***NOTICE TO ATTORNEY REGARDING DEFICIENT REQUEST FOR ISSUANCE OF SUMMONS. Notice to Attorney to RE–FILE Document No. <u>7</u> Request for Issuance of Amended Summons,. The filing is deficient for the following reason(s): the wrong event type was used to file the request for issuance of summons. Re–file the document using the event type Request for Issuance of Summons found under the event list Service of Process – select the correct filer/filers – and attach the correct summons form PDF. (pc) (Entered: 09/20/2017) |
| 09/20/2017 | <u>8</u> | REQUEST FOR ISSUANCE OF SUMMONS as to Social Security Administration, re: <u>1</u> Complaint. Document filed by Omel McLean. (Baker, James) (Entered: 09/20/2017) |
| 09/20/2017 | <u>9</u> | ELECTRONIC SUMMONS ISSUED as to Social Security Administration. (pc) (Entered: 09/20/2017) |
| 09/21/2017 | <u>10</u> | AFFIDAVIT OF SERVICE of Summons and Complaint. Social Security Administration served on 9/21/2017, answer due 10/12/2017. Service was made by mail. Document filed by Omel McLean. (Baker, James) (Entered: 09/21/2017) |
| 09/22/2017 | <u>11</u> | ORDER. By no later than October 31, 2017, Defendant shall file a letter on the docket specifying whether it has responded to Plaintiff's request made under the Freedom of Information Act ("FOIA"). To the extent Defendant has objected to Plaintiff's FOIA request in whole or in part, Defendant shall explain its objections with citations to legal authority. So Ordered. (Signed by Magistrate Judge Katharine H. Parker on 9/22/17) (yv) (Entered: 09/22/2017) |
| 10/05/2017 | <u>12</u> | NOTICE OF APPEARANCE by Joseph Anthony Pantoja on behalf of Social Security Administration. (Pantoja, Joseph) (Entered: 10/05/2017) |
| 10/26/2017 | <u>13</u> | ANSWER to <u>1</u> Complaint. Document filed by Social Security Administration.(Pantoja, Joseph) (Entered: 10/26/2017) |
| 10/30/2017 | <u>14</u> | LETTER addressed to Magistrate Judge Katharine H. Parker from Joseph A. Pantoja, AUSA dated October 30, 2017 re: whether SSA responded to plaintiff's FOIA request. Document filed by Social Security Administration.(Pantoja, Joseph) (Entered: 10/30/2017) |
| 10/30/2017 | <u>15</u> | LETTER MOTION for Conference addressed to Magistrate Judge Katharine H. Parker from James M. Baker dated October 30, 2017. Document filed by Omel McLean.(Baker, James) (Entered: 10/30/2017) |

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| 10/31/2017 | <u>16</u> | ORDER granting <u>15</u> Letter Motion for Conference. APPLICATION GRANTED: A conference in this matter is scheduled for Monday, November 27, 2017 at 3:00 p.m. in Courtroom 17-D, United States Courthouse, 500 Pearl Street, New York, New York. The purpose of the conference is to discuss the issues raised in plaintiff's 10/30/2017 Letter (ECF #15). Application Granted. (Status Conference set for 11/27/2017 at 03:00 PM in Courtroom 17D, 500 Pearl Street, New York, NY 10007 before Magistrate Judge Katharine H. Parker.) (Signed by Magistrate Judge Katharine H. Parker on 10/31/17) (yv) (Entered: 10/31/2017) |
| 11/27/2017 | <u>17</u> | Minute Entry for proceedings held before Magistrate Judge Katharine H. Parker: Status Conference held on 11/27/2017. The parties are directed to file a status letter with the court by 01/26/2018: see transcript for details.A transcript of this proceeding is available by utilizing the attached order form. (ca) (Entered: 11/27/2017) |
| 12/04/2017 | <u>18</u> | ANSWER to <u>1</u> Complaint. Document filed by Social Security Administration.(Pantoja, Joseph) (Entered: 12/04/2017) |
| 01/26/2018 | <u>19</u> | LETTER MOTION for Extension of Time to File <i>Status Letter</i> addressed to Magistrate Judge Katharine H. Parker from James M. Baker dated January 26, 2018. Document filed by Omel McLean.(Baker, James) (Entered: 01/26/2018) |
| 01/29/2018 | <u>20</u> | ORDER granting <u>19</u> Letter Motion for Extension of Time to File Status Letter. Application Granted. (Signed by Magistrate Judge Katharine H. Parker on 1/29/18) (yv) (Entered: 01/29/2018) |
| 02/02/2018 | <u>21</u> | STATUS REPORT. Document filed by Omel McLean.(Baker, James) (Entered: 02/02/2018) |
| 02/06/2018 | <u>22</u> | MEMO ENDORSEMENT on re: <u>21</u> Status Report filed by Omel McLean. ENDORSEMENT: APPLICATION GRANTED. The parties are directed to file a further status report by February 16, 2018. (Signed by Magistrate Judge Katharine H. Parker on 2/6/2018) (mro) (Entered: 02/07/2018) |
| 02/16/2018 | <u>23</u> | STATUS REPORT. Document filed by Omel McLean.(Baker, James) (Entered: 02/16/2018) |
| 02/20/2018 | <u>24</u> | MEMO ENDORSEMENT on re: <u>23</u> Status Report filed by Omel McLean. ENDORSEMENT: The Court thanks the parties for the update. The parties shall file a letter updating the Court on the status of discovery by March 22, 2018. So Ordered. (Signed by Magistrate Judge Katharine H. Parker on 2/20/18) (yv) (Entered: 02/20/2018) |
| 03/22/2018 | <u>25</u> | STATUS REPORT. Document filed by Omel McLean.(Baker, James) (Entered: 03/22/2018) |
| 03/23/2018 | <u>26</u> | MEMO ENDORSEMENT on re: <u>25</u> Status Report filed by Omel McLean. ENDORSEMENT: APPLICATION GRANTED. The Court thanks the parties for the update and directs Plaintiff to file a status report on or before May 3, 2018. So Ordered. (Signed by Magistrate Judge Katharine H. Parker on 3/23/18) (yv) (Entered: 03/23/2018) |
| 05/03/2018 | <u>27</u> | STATUS REPORT. Document filed by Omel McLean.(Baker, James) (Entered: 05/03/2018) |
| 05/04/2018 | <u>28</u> | MEMO ENDORSEMENT on re: <u>27</u> Status Report filed by Omel McLean. ENDORSEMENT: APPLICATION GRANTED: The Court thanks the parties for the update and directs Plaintiff to file a status report on or before May 30, 2018. So Ordered. (Signed by Magistrate Judge Katharine H. Parker on 5/4/18) (yv) (Entered: 05/04/2018) |
| 05/30/2018 | <u>29</u> | STATUS REPORT. Document filed by Omel McLean.(Baker, James) (Entered: 05/30/2018) |
| 05/31/2018 | <u>30</u> | MEMO ENDORSEMENT on re: <u>29</u> Status Report filed by Omel McLean. ENDORSEMENT: APPLICATION GRANTED: The Court directs the parties to file a status report on or before June 15, 2018. So Ordcered. (Signed by Magistrate Judge Katharine H. Parker on 5/31/18) (yv) (Entered: 05/31/2018) |

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| 06/15/2018 | <u>31</u> | STATUS REPORT. Document filed by Omel McLean.(Baker, James) (Entered: 06/15/2018) |
| 06/18/2018 | <u>32</u> | MEMO ENDORSEMENT on re: <u>31</u> Status Report filed by Omel McLean. ENDORSEMENT: APPLICATION GRANTED: The Court directs the parties to file a status report on or before July 18, 2018. So Ordered. (Signed by Magistrate Judge Katharine H. Parker on 6/18/18) (yv) (Entered: 06/18/2018) |
| 07/16/2018 | <u>33</u> | LETTER MOTION for Conference addressed to Magistrate Judge Katharine H. Parker from James M. Baker dated 07/16/2018. Document filed by Omel McLean.(Baker, James) (Entered: 07/16/2018) |
| 07/16/2018 | <u>34</u> | LETTER RESPONSE to Motion addressed to Magistrate Judge Katharine H. Parker from Joseph A. Pantoja, AUSA dated July 16, 2018 re: <u>33</u> LETTER MOTION for Conference addressed to Magistrate Judge Katharine H. Parker from James M. Baker dated 07/16/2018. . Document filed by Social Security Administration. (Pantoja, Joseph) (Entered: 07/16/2018) |
| 07/17/2018 | <u>35</u> | ORDER SCHEDULING TELEPHONE CONFERENCE granting <u>33</u> Letter Motion for Conference. A telephone conference in this matter is hereby scheduled for Thursday, August 2, 2018 at 1:30 p.m. to address the issues raised by the parties at Doc. Nos. 33-34. The parties are no longer required to file a further status report by July 18, 2018. SO ORDERED. (Telephone Conference set for 8/2/2018 at 01:30 PM before Magistrate Judge Katharine H. Parker.) (Signed by Magistrate Judge Katharine H. Parker on 7/17/18) (yv) (Entered: 07/17/2018) |
| 08/02/2018 | <u>36</u> | SCHEDULING ORDER: As discussed at today's conference, by September 14, 2018, Defendant shall move to dismiss and/or for summary judgment on the grounds that it has conducted a reasonable search for the documents requested in Plaintiff's FOIA request and produced the documents located as a result of that search. Plaintiff's response shall be due September 28, 2018. Defendant's reply shall be due October 12, 2018. (Parker, Katharine) (Entered: 08/02/2018) |
| 08/02/2018 | | Minute Entry for proceedings held before Magistrate Judge Katharine H. Parker: Telephone Conference held on 8/2/2018. (ca) (Entered: 08/02/2018) |
| 09/14/2018 | <u>37</u> | MOTION for Summary Judgment . Document filed by Social Security Administration.(Pantoja, Joseph) (Entered: 09/14/2018) |
| 09/14/2018 | <u>38</u> | DECLARATION of Raymond Egan in Support re: <u>37</u> MOTION for Summary Judgment .. Document filed by Social Security Administration. (Attachments: # <u>1</u> Ex1, # <u>2</u> Ex2, # <u>3</u> Ex3, # <u>4</u> Ex4)(Pantoja, Joseph) (Entered: 09/14/2018) |
| 09/14/2018 | <u>39</u> | MEMORANDUM OF LAW in Support re: <u>37</u> MOTION for Summary Judgment . . Document filed by Social Security Administration. (Pantoja, Joseph) (Entered: 09/14/2018) |
| 09/28/2018 | <u>40</u> | MEMORANDUM OF LAW in Opposition re: <u>37</u> MOTION for Summary Judgment . . Document filed by Omel McLean. (Baker, James) (Entered: 09/28/2018) |
| 09/28/2018 | <u>41</u> | AFFIRMATION of James M. Baker in Opposition re: <u>37</u> MOTION for Summary Judgment .. Document filed by Omel McLean. (Attachments: # <u>1</u> Exhibit letter, # <u>2</u> Exhibit letter, # <u>3</u> Exhibit letter, # <u>4</u> Exhibit email text)(Baker, James) (Entered: 09/28/2018) |
| 09/28/2018 | <u>42</u> | AFFIRMATION of Omel McLean, Jr. in Opposition re: <u>37</u> MOTION for Summary Judgment .. Document filed by Omel McLean. (Attachments: # <u>1</u> Exhibit court document, # <u>2</u> Exhibit SSA record, # <u>3</u> Exhibit SSA record, # <u>4</u> Exhibit SSA record, # <u>5</u> Exhibit SSA record, # <u>6</u> Exhibit SSA record, # <u>7</u> Exhibit SSA record)(Baker, James) (Entered: 09/28/2018) |
| 10/12/2018 | <u>43</u> | REPLY MEMORANDUM OF LAW in Support re: <u>37</u> MOTION for Summary Judgment . . Document filed by Social Security Administration. (Pantoja, Joseph) (Entered: 10/12/2018) |
| 10/16/2018 | <u>44</u> | LETTER addressed to Magistrate Judge Katharine H. Parker from James M. Baker dated 10/16/2018 re: Permission to File Sur-Reply. Document filed by Omel McLean.(Baker, James) (Entered: 10/16/2018) |

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| 10/18/2018 | <u>45</u> | MEMO ENDORSEMENT on re: <u>44</u> Letter For Permission to File Sur-Reply, filed by Omel McLean. ENDORSEMENT: Application Granted. (Signed by Magistrate Judge Katharine H. Parker on 10/18/18) (yv) (Entered: 10/18/2018) |
| 10/26/2018 | <u>46</u> | REPLY MEMORANDUM OF LAW in Opposition re: <u>37</u> MOTION for Summary Judgment . . Document filed by Omel McLean. (Baker, James) (Entered: 10/26/2018) |
| 12/27/2018 | <u>47</u> | STANDING ORDER M10-468: The United States Attorney's Office shall notify the Court immediately upon the restoration of Department of Justice funding. (As further set forth in this Order.) (Signed by Judge Colleen McMahon on 12/27/2018) (rjm) (Entered: 01/02/2019) |
| 01/02/2019 | <u>48</u> | REPORT AND RECOMMENDATIONS re: <u>37</u> MOTION for Summary Judgment . filed by Social Security Administration. This Court respectfully recommends that Defendant's motion for summary judgment be GRANTED. Respectfully submitted. (Objections to R&R due by 1/16/2019) (Signed by Magistrate Judge Katharine H. Parker on 1/2/19) (yv) (Entered: 01/02/2019) |
| 01/03/2019 | <u>49</u> | Vacated as per Judge's Order dated 1/4/2019, Doc. # 50 ORDER: The Clerk is directed to place the above-captioned case on suspense pending Second Circuit decision. (Signed by Judge Colleen McMahon on 1/3/2019) (mml) Modified on 1/4/2019 (mml). (Entered: 01/03/2019) |
| 01/04/2019 | <u>50</u> | ORDER: It is hereby ordered that the above entitled action be placed on the court's active docket as it was placed on suspense in error. The Clerk is directed to vacate the order at docket #49 filed on 1/3/2019. (Signed by Judge Colleen McMahon on 1/4/2019) (mml) (Entered: 01/04/2019) |